

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THE KROGER CO.,	:	Case No.: C-1-02-439
	:	
Plaintiff,	:	Beckwith, J.
	:	
	:	
v.	:	<u>THE KROGER CO'S WITHDRAWAL OF</u>
	:	<u>ITS AMENDED MOTION TO SHOW</u>
	:	<u>CAUSE AND FOR SANCTIONS</u>
	:	
MALEASE FOODS CORP.,	:	
	:	
	:	
Defendant.	:	
	:	

The Kroger Co.’s (“Kroger”) previously moved this Court to require Defendant Malease Foods Corp. (“Malease”) to show cause why they refused to obey this Court’s Order in this case dated December 7, 2004 and then later received permission to amend that Motion. Through this filing, Kroger withdraws these Motions having received the relief sought in those Motions voluntarily from the Defendant.

OF COUNSEL:

Douglas R. Dennis (0065706)
FROST BROWN TODD LLP
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202
(513) 651-6727

/s/ Scott D. Phillips
Scott D. Phillips (0043654)
Trial Attorney for Plaintiff
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 651-6983

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Withdrawal has been sent by ordinary United States mail, postage prepaid on this 10th day of June, 2005 to:

R. Gary Winters, Esq.
McCaslin, Imbus & McCaslin
900 Provident Bank Building
632 Vine Street
Cincinnati, OH 45202-2442

Robert W. Cinque, Esq.
Cinque & Cinque
845 3rd Avenue, Suite 1400
New York, NY 10022

/s/ Scott D. Phillips

CinLibrary 0046906.0505960 1514800v.1